IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5346 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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H.N.HALPATI - Petitioner
Versus
STATE OF GUJARAT & ORS - Respondents

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Appearance :
MR YOGESH S LAKHANI for Petitioner.
GOVERNMENT PLEADER for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 17/03/2006

ORAL JUDGMENT

1.The petitioner has filed this petition under Article 226 of the Constitution of India praying for the direction to the respondent authorities not to terminate the services of the petitioner and not to implement the order of termination dated 11.04.1994 and further to direct to keep the post of the petitioner vacant.

2.It is the case of the petitioner that the petitioner was appointed as Additional Assistant Engineer by an order dated 20.03.1993 issued by Superintending Engineer, Sardar Sarovar Narmada Nigam, Kevadia Colony, Bharuch. It is also the case of the petitioner that Superintending Engineer issued another order on 20.03.1993 stating that the appointment order is issued pursuant to the order passed by the Selection Committee. The Superintending

Engineer issued another order on 11.04.1994 instructing the Executive Engineer to bring to an end to the services of the petitioner.

3.Being aggrieved and dissatisfied by the said order, the petitioner has filed the present petition before this Court.

4.The petition was admitted and rule was issued on 15.04.1994. The Court has passed an order regarding status quo to be maintained as to service and service conditions of the petitioner as on the date on which the said order was served. Subsequently, on 01.04.1995, another order was passed by this Court wherein it is observed that it is not in dispute that the services of the petitioner have been terminated by an order dated 11.04.1994. Even if the petitioner has a prima facie case, in case interim relief was not granted, the petitioner would not suffer any irreparable

loss. Ultimately if the petitioner succeeds in the writ petition, he would get all the benefits. No case was made out for interim relief. The Court has, however, granted permission to the petitioner to mention for early hearing of the petition.

5.Subsequently on 18.08.2004, a detailed order was passed by this Court wherein it is observed that neither the learned advocate appearing for the petitioner nor learned Assistant Government Pleader for the respondents were aware as to whether the petitioner was continued in service or not. The matter was thereafter adjourned.

6.Today when the matter is called out, nobody is present on behalf of the respondent authorities. Though appearance of Assistant Government Pleader is shown, nobody is present. Mr. Y.S. Lakhani, learned advocate appearing for the petitioner has submitted that despite

repeated efforts made by him, he could not receive any reply from the petitioner and hence, he has no information about the present status of the petitioner.

7.It appears from the facts stated and averments made in the petition as well as the impugned order of termination that the petitioner was appointed purely on probation for a period of one year. During the probation period, the petitioner's services came to an end vide order passed on 11.04.1994. The present petition was filed on 15.04.1994. Before the order passed by this Court, is served, the termination order might have been served and might have been implemented. Since the petitioner is not in service, there is no justification in allowing this petition by directing the respondent authorities to take him in service. There is all possibility that once the petitioner's services have come to an end, the petitioner

might have taken another job and, therefore, he might have lost all interest in the present petition.

8.Be that as it may, the petition is disposed of with a liberty to the petitioner to move this Court in case of difficulty or if need so arises in future. Rule discharged without any order as to costs. Interim relief, if any, stands vacated.

[K.A. PUJ, J.]

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